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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/730,689	12/06/2000	Shamel A. Bersick	D-2872CIP	9222
33197	7590	09/18/2006	EXAMINER	
STOUT, UXA, BUYAN & MULLINS LLP 4 VENTURE, SUITE 300 IRVINE, CA 92618			DEBERADINIS, ROBERT L	
			ART UNIT	PAPER NUMBER
			2836	

DATE MAILED: 09/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/730,689

Applicant(s)

BERSIEK, SHAMEL A.

Examiner

Robert DeBeradinis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,7,8,10,12-14 and 16-19,21,22,23,25-28 is/are rejected.
- 7) ☒ Claim(s) 5,6,9,15,20 and 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/10/06 has been entered.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims of U.S. Patent No. 6,608,406. Although the

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conflicting claims are not identical, they are not patentably distinct from each other because both claim the rack mountable power distribution apparatus.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-3,7,8,10,12-14,16-17,19,21,22,25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over TANZER et al. 6,229,691 in view of LEVASSEUR 5,789,908.

Claims 1,21,22,25.

TANZER discloses a rack mountable power input unit having no internal battery; an electrical power input assembly located substantially in the housing of the power distribution unit and adapted to be electrically connected to an electrical power supply;

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and a circuit panel comprising a plurality of circuit breakers (34) located substantially in the housing of the power distribution unit, plurality of electrical power output assemblies (30), each of the plurality of electrical power output assemblies electrically connected to the electrical power input assembly and one of the circuit breakers, and adapted to receive electrical power from the electrical power input assembly, the plurality of electrical power output assemblies including a plurality of receptacles , each receptacle electrically connected to and spaced apart from one of the circuit breakers and adapted to receive an equipment plug to provide electrical power from the electrical power input assembly.

TANZER does not disclose a plurality of electrical output connections, each output connection structured and adapted to be hard-wired to a piece of equipment to provide electrical power.

LEVASSEUR discloses rack with removable connector modules (30) that are adapted to be hard-wired to a piece of equipment to provide electrical power.

It would have been obvious to one having ordinary skill in the art at the time of this invention to have modified the power distribution unit to include adapter modules wherein a piece of equipment could be hard-wired to supply power to the selected piece of equipment. The motivation would be to provide a means to permanently connect equipment to the power module.

Claim 2.

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TANZER teaches wherein the electrical power input assembly is adapted to be electrically connected to the electrical power supply separate and apart from the power distribution unit through the power cable 36.

Claim 3.

The power distribution unit disclosed by TANZER is mountable in a rack. LEVASSEUR discloses a rack with access door. It would be obvious to one having ordinary skill in the art to provide access door where needed to access controls or to easily service the power distribution unit.

Claim 7.

It would be obvious to one of ordinary skill to adapt the power distribution unit to be electrically connected to a single phase electrical power supply or for that matter to any power supply connection.

Claims 8,10,12,13,14,16,19,26,27,28.

TANZER teaches circuit breakers and receptacles and that groups of receptacles are connected to each circuit breaker. TANZER does not teach wherein each of the output connections and the receptacles is electrically connected to a different circuit breaker of the plurality of circuit breakers.

It would be obvious to one having ordinary skill in the art to connect a single receptacle to a single circuit breaker if the desire is to have independent breakers for each receptacle.

Claim 17.

TANZER discloses a 19 inches standard rack.

Claims 4,18,23 are rejected under 35 U.S.C. 103(a) as being unpatentable over TANZER et al. 6,229,691 in view of LEVASSEUR 5,789,908 in further view of SCOTT 5,204,798.

Claims 4,18,23.

TANZER in view of LEVASSEUR disclose the power distribution unit of claim 1.

TANZER in view of LEVASSEUR does not disclose the meter located within the housing and adapted to monitor at least one property of the electrical power passing through the input assembly.

SCOTT discloses metering accessory for circuit breaker. It would have been obvious to one having ordinary skill in the art at the time of this invention to modify the power distribution unit to include a meter to monitor the current flowing through the power distribution unit.

Allowable Subject Matter

Claims 5,6,9,15,20,24 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Any inquiry concerning this communication should be directed to Robert L. DeBeradinis whose number is (571) 272-2049. The Examiner can normally be reached Monday-Friday from 8:30 am to 5:00 pm.

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If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Brian Sircus, can be reached on (571) 272-2058. The Fax phone number for this Group is (571) 272-8300.

RLD

SEPTEMBER 6, 2006



ROBERT L. DEBERADINS
PRIMARY EXAMINER